UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1991/SR.4
22 August 1991

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 August 1991, at 3 p.m.

Chairman: Mr. JOINET

CONTENTS

Organization of work (continued)

Review of the work of the Sub-Commission (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-12655/3577B

The meeting was called to order at 3.10 p.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN read out the revised timetable for the work of the current session. He said that, if there was no objection, he would take it that the Sub-Commission wished to adopt the timetable.

2. It was so decided.

3. Mr. ALFONSO MARTINEZ congratulated the officers on producing the new timetable which would contribute to improving the quality of the Sub-Commission's work. He would however request the Secretariat to inform the the Working Group on the right to leave and to return, in writing, about the time limits for the submission of draft resolutions with financial implications, as it would have only one formal working meeting.

4. Mr. SACHAR regretted that the last meeting allotted for the consideration of items 10 and 11 should be so far removed from the others.

5. The CHAIRMAN said that the decision to hold that meeting on 28 August had been motivated by the possibility of an extended meeting, which might indeed be necessary.

6. Mr. DESPOUY, referring to the decision to consider item 4 only towards the end of the session because the documentation might not be available earlier, expressed the hope that item 12 would not be introduced until all the documents were ready.

7. The CHAIRMAN proposed that, if the documentation on item 12 was not available while that on item 4 was, the order in which those two items would be considered should be reversed.

8. Following a discussion in which Mrs. KSENTINI, Mr. ALFONSO MARTINEZ, Mr. SACHAR and Mr. HELLER took part, the Chairman proposed that the discussion on item 3 should continue notwithstanding the timetable which had just been adopted and that, during the discussion, the Secretariat or the outgoing Chairman should draw up the list of practical issues which the Working Group would consider.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued)
(E/CN.4/Sub.2/1990/14; E/CN.4/1991/48)

9. Mr. DIACONU said that the Sub-Commission should make an in-depth study of its own future under the current item. While the opinion had recently been expressed that the Sub-Commission should no longer exist, it nevertheless had a specific role among United Nations bodies as it was the only one comprising a large number of experts of different origins, training and experience who had themselves developed their own expertise in the course of the Sub-Commission's work. That was in a way an investment in the field of human rights and should not be abandoned. At the personal level, he deplored that objective reasons had prevented him from making the contribution which he would like to have made and could have made during the four years in which he had participated in the Sub-Commission's work.

10. The work of the Sub-Commission could nevertheless be greatly improved, but it must avoid going beyond the essential concerns of the United Nations in the field of human rights by becoming involved in issues which were too easy or of fleeting or limited interest. The proper issues for the Sub-Commission in the future were economic and social rights, the problem of national minorities and the question of vulnerable groups, as well as the integration of human rights in the question of development, as Mr. van Boven had rightly emphasized. The Sub-Commission must also avoid overlap with other United Nations bodies. For example, why revert year after year to the issue of the independence of the judiciary and the treatment of offenders when those questions were studied periodically in the context of the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders? On the other hand, the Sub-Commission should continue to prepare studies on the basis of the new standards set forth in the 60 or so international instruments on human rights to which the Under-Secretary-General for Human Rights had alluded. Nor should the importance of instruments on international law in general be underestimated. It would seem that those instruments, some of which had already been accepted or implemented, had not been sufficiently analysed by the Sub-Commission. Again, why had the Commission on Human Rights not entrusted the Sub-Commission with the preparation of the declarations on the question of minorities or the right to development or the Convention on the Rights of the Child when the Sub-Commission had a Working Group on Contemporary Forms of Slavery? On the other hand the Sub-Commission should not become embroiled in a multitude of issues which it did not have the resources to pursue and it should for example complete the studies which had been going on for many years on problems which had lost their importance and instead concentrate on the most urgent issues. In conclusion, he expressed the hope that the Sub-Commission would be more demanding in terms of the content and presentation of documents which it submitted to the Commission on Human Rights, as that would testify to the quality of its work.

11. Mrs. PALLEY welcomed the fact that the Commission had made it possible for the Sub-Commission to take decisions by secret ballot and that, in its resolution 1991/56, it had stressed the importance of the impartiality and independence of the experts and their alternates. By laying stress on new developments in the field of human rights in the preamble and in paragraph 14 of that resolution, the Commission had provided the Sub-Commission with a basic criterion for its future work. The Commission had placed equal stress on the systematic preparation of well-researched studies, while avoiding a proliferation of work. It was, however, to be noted that the text of paragraph 5 recommending that the Sub-Commission should, "as a general rule", propose a new study only when a study previously authorized was fully completed hinted at the possibility of certain exceptions. It was really very important that new studies should be made on the changes which had taken place in States and at the level of international organizations. It was also a fact that old concepts were currently interpreted in a new fashion. Thus, States intervened in the affairs of other States on the authorization of the United Nations Security Council while the European Economic Community was considering military intervention in a country which was not even a member of the Community, Yugoslavia: nor should the unlawful interventions in Panama, Grenada, Czechoslovakia and Hungary be forgotten.

12. As a result of that evolution and the development of the activities of the United Nations bodies, the question of the right of humanitarian intervention had arisen. In fact, under Chapter VII of the Charter of the United Nations only a threat to peace could constitute grounds for intervention and there was no mechanism in the United Nations system for dealing with genocide or major disasters. Consequently, the United Nations itself had sometimes interpreted the provisions of the Charter, for example in deciding that the racial discrimination applied in the former Southern Rhodesia had represented a threat to international peace. The Sub-Commission must therefore study all those factors and evaluate their implications in order to determine whether a right of humanitarian intervention really existed and, if so, who could intervene, in what circumstances and on the instructions of which body (Security Council or General Assembly). In any case, the current situation could not continue and the Sub-Commission should entrust the study of that urgent question to two or three of its members or their alternates.

13. Mr. TURK, like Mrs. Palley, had been concerned by some parts of Commission on Human Rights resolution 1991/56, which raised doubts about the work of the Sub-Commission. Although he himself, at previous sessions of the Sub-Commission and the Commission on Human Rights respectively, had pointed out that the Sub-Commission was adopting fewer resolutions than before, particularly on country situations, the Commission had not responded and the reference, in its resolution, to the growing number of resolutions and decisions adopted each year by the Sub-Commission had been retained. The Chairman of the Commission on Human Rights might perhaps raise that aspect of the issue when he addressed the Sub-Commission. Moreover, by stressing the importance of new developments in the field of human rights, the Commission had invited the Sub-Commission to analyse and select its subjects with care, in order to avoid as a general rule any proliferation.

14. Mrs. Palley had been right to raise the question of humanitarian intervention which had been particularly relevant during the last few months and which he himself had had an opportunity to discuss recently during a conference organized on the topic at the University of Geneva. In a study on the issue a few years earlier, he had emphasized that, while concern for human rights was the basic motivation for humanitarian intervention, at the present time political considerations were the dominant factor in all such cases. The Sub-Commission should therefore approach the question from a new angle, so that humanitarian concerns would take precedence over political considerations. In that connection, he wished to stress that the military intervention envisaged in the case of his own country, Yugoslavia, was also a response to concerns which were in essence political. Such a serious question might possibly give rise to informal consultations.

15. To implement Commission resolution 1991/56, which called upon the Sub-Commission to consider elaborating procedures with a view to ensuring the earliest possible completion of studies, he suggested, first, that all studies should be systematically preceded by a feasibility study, without financial implications. Moreover, at each of its sessions, the Sub-Commission might request two experts to make an in-depth analysis of the studies undertaken. As to the length of the studies, the present three-year cycle was reasonable on condition that it could be extended in cases where for objective reasons

it might be impossible to finish the work within the time-frame scheduled. If a study was not completed after five years, the special rapporteur in question should have to submit a document explaining his special difficulties. Lastly, the Sub-Commission should devote a certain amount of time to considering the reports once finished so that the relevant conclusions and recommendations could be finalized. In conclusion, he considered that the Sub-Commission ought not to disappoint the Commission on Human Rights which expected it to produce studies of high quality.

16. Mr. SABOIA recalled that the Sub-Commission's role was to provide the Commission with ways and means of improving the protection of human rights and that Governments as well as non-governmental organizations had acknowledged that it had discharged its mandate well. However, some doubts and criticisms had been expressed; the Sub-Commission was said to be adopting too many projects, thus duplicating the Commission's work and running the risk of being "political"; it was also in danger of departing from its mandate. He believed that although the former criticism had long been justified, it was increasingly less so. As to the latter, he considered that the majority of the reports provided fresh and very useful ideas about human rights problems and that the profound changes in international relations - the end of the cold war, the Gulf crisis and so on - had an influence on the reality of human rights that the Sub-Commission could not ignore. It must now take account of the new distribution of political powers and the importance assumed by humanitarian law. Disappointing as the international system of assistance to distress was, it had operated according to international standards, those of the United Nations. Mrs. Palley had been right to warn against using the humanitarian factor for political ends. Mr. Türk had noted that humanitarian intervention also responded to political concerns. Their two statements were yet another reason for the Sub-Commission to study human rights in the light of the new world that was coming into being. It was right for it to assume a guiding role in that connection, in particular by taking part in the preparations for the Conference on Human Rights.

17. Mrs. DAES recalled that two years earlier the Under-Secretary-General had said that the Sub-Commission was a reservoir of experts in the forefront of thinking on human rights. It must therefore continue to exist. At the present session the Under-Secretary-General had made an introductory statement which should guide the Sub-Commission's work, in particular on item 3. She thanked Mr. Türk, who had defended the Sub-Commission very well in the Sub-Commission's report to the Commission.

18. In connection with Commission on Human Rights resolution 1991/56, she first thanked the Commission for its unanimous support for all the resolutions on the work of the Working Group on Indigenous Populations and those dealing with the recognition and protection of the rights of indigenous populations. Paragraph 15 of that resolution, which contained high praise for the working groups, was also to be welcomed. However, the resolution also contained provisions repeating almost word for word some of the Commission's previous resolutions, for instance, paragraph 13 on the proliferation of studies and draft resolutions or decisions. In fact at its forty-seventh session the Commission had itself adopted 123 resolutions and decisions not all of which she believed to be necessary. As to the practice of communicating draft resolutions or draft decisions of the Sub-Commission to the Commission for

information, decision or consideration, that was a way of cooperating with the Commission which should not be interpreted as interference by the Commission in the work of the Sub-Commission. She agreed with Mr. Saboia that the Sub-Commission had a role to play in the Conference on Human Rights. Lastly, as far as humanitarian intervention was concerned, the Sub-Commission had an obligation, as Mrs. Palley had said, to consider the question from all angles and prepare a paper on it.

19. Mr. EIDE unreservedly endorsed Mr. van Boven's remarks that morning about the work done by the Sub-Commission. He stressed the extreme importance, already underlined by Mrs. Palley of the question of humanitarian intervention - which also came within the Sub-Commission's sphere of competence under item 14. He was convinced that there was an increasingly strong link between respect for human rights and peace. On various occasions recently the United Nations had cooperated with the parties concerned either by supervising elections or by acting as intermediary in peaceful negotiations, thus making a contribution to the peaceful resolution of conflicts and bringing respect for human rights to the fore. The consequences of that new state of affairs should now be studied in depth.

20. The question of humanitarian intervention arose in extreme cases and consideration must be given to all that could be done to prevent a situation from degenerating before it was contemplated. In Namibia and El Salvador such efforts had been successful. Humanitarian intervention must not be conceived as it had been in the nineteenth century. Today a new point of view was necessary. It was legitimate for the international community to concern itself with the non-observance of human rights, for that was not confined to a single country but involved a whole region, bringing in its wake a flood of refugees and finally affecting the whole world, which was rightly concerned with the way in which human rights were implemented. It was appropriate to act if Governments violated such rights in a way that was unacceptable in the twentieth century. However, it was important to be very watchful, so as not to deflect that action from its objective, and all means must be strengthened to ensure that action did not have to be used. Those means were cooperation and communication not only with Governments but also with liberation movements and others, which often behaved like tigers because they had to fight with ferocious Governments. Today, in the twentieth century, one must look forward to the twenty-first century and humanize political relationships.

21. Mrs. WARZAZI, reverting to Mrs. Palley's statement, wondered whether a right of so-called "humanitarian" intervention should really be established. When the principle had been formulated three years earlier, it had been specified that such intervention would only apply to cases of natural disasters. The distressing case of Iraq was something new in international usage. The right of intervention did not exist in international law: it had not been discussed or negotiated at the highest level, namely in the Sixth Committee, and it had not even been discussed at the humanitarian level in the Third Committee. It might give rise to protracted discussions, for the question of human rights did not arise and was not resolved in a standardized way; the world was a varied place and criteria of judgement varied according to where one happened to be. The situation in Europe or in the United States, where economic democracy had bred political democracy, could not be compared with the situation prevailing in countries which still had all the way to go

on the road to democracy. Moreover, the interpretation of an ideal right of intervention could not be based on the Charter of the United Nations; quite the contrary, for the Charter established the principle of non-intervention. Based on actual experience in Iraq, the right of intervention, introduced by the Security Council in the specific case of that country was indeed politically motivated. It had operated in favour of some (the Kurds) but not of others (the Shi'ites). It would therefore be extremely interesting to discuss that matter. It should be clear that such a right if one day established by international humanitarian law should be able to be invoked by all countries, including by those with no military potential whatsoever and not just a few with exclusive rights to it. The new world order, should it come about, ought to ensure that the sacrosanct principle of equality of countries and peoples, great or small, prevailed. Only then could Mrs. Palley's proposal be discussed. If that principle of equality of countries and peoples was not respected, any country might attack its neighbour under cover of humanitarian intervention.

22. The CHAIRMAN wondered whether item 3 was the proper context for the present discussion. The point at issue was whether a topic or a new development should be taken up. It would seem that the discussion was going beyond guidelines to be given to the Working Group. He would like the discussion to be resumed under item 4 and the Secretariat to sum up the question, in fact, every two years the Secretary-General had to report to the General Assembly on the implementation of the resolution in question. He therefore suggested that the Sub-Commission should resume its consideration of item 3, temporarily discontinuing consideration of the question of the "right to intervention" under that item.

23. Mrs. KSENTINI formally opposed the study proposed by Mrs. Palley. She fully endorsed the concerns expressed by Mrs. Warzazi and considered that unless certain conditions were satisfied to ensure that every State, small or large, was able to exercise the right to intervention, the Sub-Commission should not embark on a study that might give the impression that it agreed to the establishment of the principle.

24. Turning to more practical questions, she considered that the criticisms addressed to the Sub-Commission had to be answered. First of all, the issue of the proliferation of resolutions did not seem really justified, for the Commission had never censured any resolution by the Sub-Commission. At all events, between the Commission and the Sub-Commission, there existed not opposition but a fully necessary complementarity. As regards the proliferation of studies, much indeed remained to be done. It would be entirely possible to improve the working methods by deciding on the advisability of carrying out a study; for that there had to be available a list of reports already made. Time and the necessary human and financial resources were also required to consider ongoing studies, and no new study should be undertaken before the previous one had been concluded. Similarly, there would have to be a feasibility study before any new study was carried out. The Sub-Commission might consider establishing a medium and long-term programme on studies to be undertaken, and either place the question squarely on the agenda or make it a component of agenda item 3 or 4. With regard to the choice of experts to whom a study should be entrusted, she considered it important to make sure there was an equitable geographical distribution. For

example, a study might be entrusted not to a single expert but to two or three. She also raised various other questions: the appointment of alternates in charge of carrying out studies; the consideration and study of preliminary and interim reports; material and human assistance granted to the special rapporteur commissioned to carry out a study; follow-up of studies and recommendations. In that regard she expressed regret that the special rapporteur was no longer entitled to submit his study himself to the Commission. She also referred to the publication of studies, which should be accompanied by publicity in order to make them better known. Finally, the Sub-Commission should create machinery for following up the recommendations appearing in a study, at a pace to be determined.

25. Mr. SADI said that he would like the statements by Mr. Martenson and Mr. Türk to be treated as official documents. As to the question of whether humanitarian intervention should be considered under agenda item 3, that depended on its interpretation. A distinction had to be made on one hand between humanitarian intervention and the question of human rights, and on the other hand between military and non-military intervention. If non-military intervention was involved, it should indeed be considered under agenda item 3, because the Sub-Commission itself intervened in the affairs of States by investigating the human rights situation and that intervention was justified, for sovereignty was no longer an absolute value.

26. Mr. CHERNICHENKO considered that the Working Group was concerning itself with a narrower range of human rights issues than was envisaged in the agenda. He himself would like to raise broader issues. If the basic task of the Sub-Commission was to depoliticize its work, its working methods had to be improved, for the more precisely defined the legal framework, the less danger there would be of politicization. He advocated the establishment of machinery to make it possible to react to urgent and unexpected situations. With regard to the relations between the Sub-Commission and the Commission, he recalled that with effect from 1992 the number of members of the Commission would increase to 53. That was a fundamental change and not a simple matter of arithmetic. It was an opportunity for rethinking the entire system of human rights bodies. It might even be necessary to begin with the Economic and Social Council itself. The jurisdiction of the latter was indeed of many kinds, and it might be possible boldly to consider dividing it in two. There would then be an Economic Council and a Social Council, the latter responsible for human rights. The Commission on Human Rights might then merge with the Social Council, and the Sub-Commission would be renamed Commission; but it would be an entirely different Commission, whose membership would increase slightly, and which would be an expert body of the Social Council.

27. The CHAIRMAN observed that that would be indeed a far-reaching programme, comparing it with the medium and long-term programme proposed by Mrs. Ksentini.

28. Mrs. WARZAZI considered that that proposal had come very late and that the internal rationalization that had taken place in the Economic and Social Council had been very harmful to human rights.

29. Mr. HELLER, reverting to the criticism of the Sub-Commission made by the Commission, recognized that one thing was certain: United Nations human rights activities were not sufficiently structured; in order to redress that

situation, the Commission might give more attention to the World Conference on Human Rights of 1993, which offered the Sub-Commission the opportunity to present its ideas more concretely. The Preparatory Committee of the Conference had, furthermore, invited the Sub-Commission to attend as an observer. A working group on that Conference could perhaps be set up. He endorsed several of the ideas put forward by Mrs. Ksentini with regard to the organization of work. On the question of humanitarian intervention, he shared the concerns of Mrs. Warzazi and Mrs. Ksentini.

30. Mr. DESPOUY said he was aware that agenda item 3 dealt mainly with the guidelines given by the Commission to the Sub-Commission and to the Working Group on methods of work, and that some of the comments by preceding speakers went far beyond those questions. However, it was difficult not to reflect on some of the questions that would be considered by that working group and on a few new topics that seemed to be important for the Sub-Commission's work. In particular, it was appropriate to look into the question of the coordination and harmonization of all the machinery for human rights protection. Instead of creating new bodies, an attempt had to be made to rationalize the work of those that existed. In that regard, the experience of the Sub-Commission and CERD constituted a precedent and might serve as a model for other bodies. The relations between the Commission and the Sub-Commission had to be better defined. The Commission, seeing that it would soon number 53 members, was a very wide-ranging body, which was not always very well aware of what it could expect of the Sub-Commission; that was reflected in a proliferation of resolutions and decisions. The Sub-Commission was an expert body that had to act as such and which might very well, as Mrs. Warzazi had said, formulate expert opinions on the decisions taken by the Commission and even by the Economic and Social Council on the way to improve the system of human rights protection.

31. Regarding the idea of humanitarian intervention, it was hard to say at the moment whether the Sub-Commission should or should not take a stand on that subject. The changes that had come about on the international scene in recent years had unfortunately not been accompanied by a positive evolution in the humanitarian sphere, particularly with regard to the question of asylum. There was no doubt that the Sub-Commission should focus on that issue. According to reports from the Office of the United Nations High Commissioner for Refugees, in some regions of the world thousands of persons had been forcibly returned to their countries of origin, where their lives were in danger. The right of asylum was currently being violated in complete silence, while the idea of humanitarian intervention, which had strong political connotations, was being glorified. Should the Sub-Commission therefore try to give that idea a legal basis, or concern itself instead with the various aspects of the current crisis in the humanitarian sphere? The importance and priority to be given to each question had to be carefully considered.

32. With regard to the contribution that the Sub-Commission experts might make to the 1993 World Conference on Human Rights, he would like to know under which agenda item experts who wished to speak on that topic might do so.

33. The CHAIRMAN thought that it would be more appropriate to consider the two issues of substance referred to by Mr. Despouy, namely, the right of humanitarian intervention and the right of asylum, under agenda item 4, which

dealt with the consideration of further developments in fields with which the Sub-Commission was already concerned, or under agenda item 19 which dealt with the right of everyone to leave any country, including his own, and to return to his country, and for the moment, he would like speakers to confine their statements to item 3. He also drew the attention of participants to the importance of document E/CN.4/Sub.2/1991/11 which contained specific suggestions in respect of item 5 (a), on which it would be desirable for the Sub-Commission to take a position.

34. Mr. ILKAHANAF acknowledged that the question of the right of humanitarian intervention was a sensitive one, for it had strong political connotations, but it was also a topical issue discussed in many international bodies, and the Sub-Commission could also be expected to take it up. It would also be useful for the Sub-Commission to study the problems of asylum caused by the human rights violations committed in many countries. The discussion should not be confined to Iraq. In his own country hundreds of thousands of persons had been exterminated without the international community deeming it necessary to intervene, and thousands of others had had to seek refuge in neighbouring countries. He stressed that human rights standards were universal and applied without distinction to all peoples in all regions of the world. There was no such thing as different categories of rights or norms for developed and developing countries; he therefore did not understand very well what Mrs. Warzazi had meant. He reserved the right to return to that question under agenda item 4 or 6.

35. Mr. SACHAR took the view that the question of humanitarian intervention should not be considered under agenda item 3. He wished, however, to point out the importance of making a distinction between intervention by Governments, which could in no circumstances be admitted, whether it took the form of military or of any other kind of intervention, and intervention by non-governmental organizations to uncover human rights violations. Furthermore, there was no doubt that human rights standards were universal and valid for all parts of the world.

36. As far as the Sub-Commission's methods of work were concerned, it was his understanding that the Commission on Human Rights was complaining about the proliferation of reports and studies; he therefore wondered why the Commission had decided to create, for a three-year period, a working group to investigate cases of arbitrary detention, as indicated in paragraph 150 of the annotated agenda (E/CN.4/Sub.2/1991/1/Add.1) when the Sub-Commission had already undertaken a study of the subject which the Commission should therefore have invited it to continue. That seemed to him to be a typical case of duplication, and he would like to have an explanation of it.

37. The CHAIRMAN explained that there was no danger of overlapping, in so far as the report commissioned by the Sub-Commission (E/CN.4/Sub.2/1990/29) was essentially concerned with administrative detention and that, following the debate to which it had given rise, the Sub-Commission had considered it necessary to deal with all forms of detention, whether or not they were administrative, if they were arbitrary. In his capacity as Special Rapporteur, he had therefore drafted an addendum to the report in question (E/CN.4/Sub.2/1990/29/Add.1) in which he had proposed the establishment of a

working group on the model of the Working Group on Enforced or Involuntary Disappearances - in other words, a working group that would collect information on specific situations. The Commission had merely followed up that proposal. That did not mean that the Sub-Commission was no longer dealing with arbitrary detention at all. It could continue to consider so in connection with other work.

38. Mr. ALFONSO MARTINEZ wished to indicate, to begin with, that he was totally opposed to the question of the right of humanitarian intervention being considered by the Sub-Commission, which did not seem to him to be the most appropriate forum for that purpose. He would come back to that point when agenda item 4 was considered.

39. As far as item 3 was concerned, he recalled that, according to an article that had appeared in the Geneva press, the observer for the United States of America, Mr. Abram, had stated at a press conference that he wanted the Sub-Commission to concern itself essentially with the matters falling under the mandate which it had originally been given and which was the justification of its existence. He therefore placed great hope in the Working Group on Methods of Work, although, in his opinion, the problems facing the Sub-Commission were not connected with its methods of work or with the proliferation of the decisions which it took or of the studies which it carried out, but with the approach which it adopted in its work.

40. Furthermore, in his opinion, there was no conflict between the Commission and the Sub-Commission. Since 1988 the Commission had been closely following the studies which the Sub-Commission had decided to make and had regularly asked it, in all the resolutions which it had adopted, not to undertake any new study before completing those which were under way. If, however, an analysis was made of the resolutions adopted by the Commission in 1990 and 1991, it would be found that, while making the same recommendations to the Sub-Commission, the Commission had proposed in 1990 that three further studies be made - on the right to freedom of opinion and expression, on compensation for victims of gross violations of human rights, and on discrimination against people with AIDS - as well as three further studies in 1991 - on the right to a fair trial, on the independence and impartiality of the judiciary, and on human rights and the environment. In his opinion, there was no contradiction between a series of logical and sensible recommendations made by the Commission to the Sub-Commission and decisions to undertake further studies. Consequently, there was no reason to speak of a disagreement between the two bodies. There was no doubt that all questions concerning human rights fell within the Sub-Commission's mandate and that the Sub-Commission should be able to consider them from its own standpoint. In that connection, it was important that the Working Group, in its deliberations on the Sub-Commission's future methods of work, should take into account the need to restore a balance between the two major categories of rights established in 1966 - namely, civil and political rights on the one hand and economic, social and cultural rights on the other - and to emphasize the fact that although those rights were universal in the sense that nobody should, in any country, be arbitrarily deprived of his right to life or subjected to slavery or torture, for example, the way in which their content was interpreted varied according to the cultural and legal traditions and legislation of each country. Finally, the Working Group ought to consider how the Sub-Commission could contribute to the

preparations for the World Conference on Human Rights in 1993. It should also take a decision on the new draft rules of procedure submitted by Mr. Hatano, and it would be useful if it could give some indication as to what would happen to item 4.

41. Mrs. PALLEY recalled that, in his first statement at Geneva, the observer for the United States of America mentioned by Mr. Alfonso Martínez had spoken very sarcastically about the Sub-Commission and had requested it, as was shown by the summary record of the meeting held on 8 August 1989 (E/CN.4/Sub.2/1989/SR.3), to inform him in good time of the measures which it would take to deal directly with questions such as the deliberate interruption of food supplies. It might, perhaps, be appropriate for the Sub-Commission to give effective consideration to that matter.

42. The CHAIRMAN recapitulated the specific measures which had been explicitly proposed on the subject of reports. It had been suggested that it be made standard practice to draft a feasibility study in the form of a working paper without financial implications before a decision to prepare a report was taken; that, "commentators" responsible for drawing attention to points in reports that could give rise to discussion be appointed; that the preparation of an annual updated list of current and completed studies be made standard practice, stating whether or not they had been followed up; that no new studies be undertaken until the studies currently being prepared had been completed; that a better geographical distribution of rapporteurs be brought about; that the advisability of entrusting studies to alternates be examined; that the publicity given to studies be improved, particularly through the publication of summaries; that machinery to ensure that recommendations were followed up be established; and that reports entailing follow-up action, either annual or periodic, be updated. The other measures proposed concerned the reform of the Economic and Social Council, the advisability of establishing a working group with a view to the preparations for the World Conference on Human Rights in 1993, and the establishment, by the Working Group on methods of work, of a list of subjects falling under agenda item 4. It had also been requested that the Working Group on methods of work should have available to it, as working papers, the statement by the Under-Secretary-General for Human Rights, the statement by the Chairman, the report of the Working Group at the previous session, and the resolutions of the Commission on Human Rights in which the Commission made recommendations to the Sub-Commission.

43. Mr. CISSE (Secretary of the Sub-Commission) indicated that the Working Group on Detention would consist of Mr. Despouy, Mr. Hatano, Mr. Ilkahanaf, Mr. Treat and Mr. Türk; the Working Group on the Sub-Commission's methods of work of Mr. van Boven, Mr. Chernichenko, Mrs. Ksentini, Mr. Saboia and Mr. Sachar; and the Working Group on the right to leave and to return of Mr. Alfonso Martínez, Mrs. Attah or her alternate Mrs. Mbonu, Mr. Eide, Mr. Maxim and Mr. Sadi.

The meeting rose at 6.10 p.m.